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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,339	01/23/2004	Sergey N. Razumov	59036-039	4969

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McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
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ALMATRAHI, FARIS S

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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05/11/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,339	<b>Applicant(s)</b> RAZUMOV, SERGEY N.	
	<b>Examiner</b> FARIS ALMATRAHI	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-44 is/are pending in the application.
- 4a) Of the above claim(s) 16-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-15 and 39-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the Application***

1. This action is in reply to applicant communication filed March 29, 2010.
2. Claim 1 has been cancelled.
3. Claims 16-38 have been withdrawn.
4. Claims 2-44 are pending in this application.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features recited in claims 2-15 and 39-44 such as the order support server, graphical user interface, the first server associated with the first node, routing delivery path, arranging a return path, routing protocol, intermediate server, local computer and regional computer must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-15 and 39-44** are rejected under 35 U.S.C 103(a) as being unpatentable over Perkowski (US Publication No. 2003/0009392 A1) in view of Roach et al. (US Patent No. 5,434,394).

Perkowski shows a system for processing orders received from a client terminal, the system comprising an order support server causing the client terminal to produce a graphical user interface identifying goods available in a regional network that includes a selected point of sale, if the item is available in the regional network, the graphical user

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interface enabling the customer to place an order for delivery of the item within the regional network, if the item is not available in the regional network, the order support server determining a first node outside of the regional network, at which the item is available; and a first server associated with the first node and configured for receiving the request if the item is not available in the regional network (Figure 2, Paragraphs [0107], [0232] – [0233], [0416], [1002]). A second server configured for arranging a return path for return of an item returned by a customer from a point of sales selected by the customer for return to a selected node (Figure 2, Paragraphs [0107], [0232]). A two-directional transfer of goods between regional node and selected node (Figure 2).

Perkowski does not teach enabling the customer to specify placing an order for delivery from a first node to a selected point of sale and explicitly specifying the point of sale computer to provide information that requires a first bandwidth and the regional computer provides the customer with information that requires a second bandwidth more narrow than the first bandwidth.

Roach et al. teaches a system enabling the customer to specify placing an order for delivery from a first node to a selected point of sale (Abstract, Figure 3C).

Based on the teaching of Roach et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Perkowski reference to include a system enabling the customer to specify the delivery location of the items ordered, for the advantage of enabling delivery of merchandise to customers in the shortest possible time (Roach Column 2 lines 56-60).

Although Perkowski does not explicitly specify the point of sale computer to provide information that requires a first bandwidth and the regional computer provides the customer with information that requires a second bandwidth more narrow than the first bandwidth, Perkowski implicitly discloses the point of sale providing information that would require more bandwidth than the regional computer (Paragraphs [0036] - [0037]). Furthermore it would have been obvious to one of ordinary skill in the art to modify information in a local terminal to utilize information that would require more bandwidth than information transferred over a network server.

### ***Response to Arguments***

6. Applicant's arguments filed on March 29, 2010 have been fully considered but they are not persuasive

7. Regarding Applicants arguments that the objection to the drawing is improper. Examiner respectfully disagrees. Again, applicant is respectfully requested to refer to the Drawing objection and review the features objected and make the necessary changes. Applicant's argument filed in March 29, 2010 was not found persuasive or sufficient to overcome the objection.

8. In response to applicant's arguments, the recitation "a retail network comprising at least one district network including a district node and multiple regional networks, each having a regional node and multiple points of sale, a system for processing orders received from a client terminal capable of sending a request providing indication of an item being ordered and indication of a point of sale selected for delivery of the item,

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together with an identifier of a customer" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

9. Regarding Applicants arguments that *Perkowski fails to disclose an order support server causing the client terminal to produce a graphical user interface identifying goods available in a regional network that includes a selected point of sale, if the item is available in the regional network, the graphical user interface enabling the customer to place an order for delivery of the item within the regional network, if the item is not available in the regional network, the order support server determining a first node outside of the regional network, at which the item is available*. Examiner respectfully disagrees. Perkowski discloses in Figure 2 and Paragraphs [0416] – [0417] an order support server which causes goods to be identified to consumers for order placement. Perkowski discloses retailer subsystems linked to the order server which consumers utilize in order placement.

10. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faris Almatrahi whose telephone number is (571)270-3326. The examiner can normally be reached on Monday to Friday 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Faris Almatrahi  
Examiner  
Art Unit 3627

FA

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627